

3 NOVEMBER 1947

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Of
WITNESSES

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3 NOVEMBER 1947

I N D E X
of
EXHIBITS

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
3203		3376	Excerpt from Exhibit No. 3038-B - Letter dated 25 July 1931 from the Commander of the Military Police to the War Minister re Study on the Organization of MP Force in Manchuria		32302

Monday, 3 November 1947

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INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

- - -

Appearances:

For the Tribunal, all Members sitting, with
the exception of: HONORABLE JUSTICE R. B. PAL, Member
from India, not sitting from 0930 to 1600.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

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(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except SHIRATORI and TOGO who are represented by
5 counsel. We have a certificate from the prison
6 surgeon of Sugamo certifying that SHIRATORI is too
7 ill to attend the trial today. The certificate will
8 be recorded and filed. With the Tribunal's permission
9 the accused TOGO will be absent from the courtroom
10 during the whole of the morning session conferring
11 with his counsel.

12 General Vasiliev.

13 GENERAL VASILIEV: Your Honor, the last
14 witness Budarin in the Soviet phase of the prosecution,
15 called for cross-examination, has arrived in Tokyo.

16 As this witness arrived on board a Soviet
17 ship, and it is desirable that the witness leave on
18 board the same ship which probably leaves Tokyo
19 tomorrow, we respectfully ask the permission of the
20 Court that the witness Budarin be examined any time
21 today at the discretion of the Court. Mr. Budarin
22 is in the witness room.

23 I apologize that my request interrupts
24 KOISO's case, but there is no other way as we do not
25 wish the witness to spend more time than is necessary

away from his work.

1 MR. FURNESS: If the Tribunal please, the
2 defense never requested the witness Budarin be called
3 for cross-examination. He was not included in our
4 motion. We told the Soviet prosecutor last week
5 that we had no wish to cross-examine him and that he
6 need not come here. We do not feel that his testimony
7 is of any material importance and we therefore have
8 no wish to cross-examine him, and we never had such
9 a wish.
10

11 GENERAL VASILIEV: The defense told us that
12 they didn't wish to cross-examine that witness last
13 week when the witness was on board ship on his way
14 to Tokyo.

15 THE PRESIDENT: They say they never asked
16 for him to be brought for cross-examination.

17 MR. FURNESS: We were also told, if your
18 Honor please, that he was to come here by plane. We
19 were told that on Wednesday and we were asked whether
20 we wished to cross-examine him. We told them that
21 we did not wish to cross-examine him and there was
22 no need of his taking the plane.
23

24 GENERAL VASILIEV: It was not on Wednesday.
25 As a matter of fact, it was on Thursday, but this is
not the most important point. When the affidavit was

1 offered, the defense didn't call that witness for
2 cross-examination. But in July of this year, the
3 defense filed a blanket motion as regards all witnesses
4 in the Soviet phase, and this motion of the defense
5 was fully granted, which means that the witness
6 Budarin was included as well.

7 THE PRESIDENT: However, they do not want
8 to cross-examine and that is the end of it.

9 MR. FURNESS: If your Honor please, our
10 motion named the witnesses we wanted brought. We
11 argued on the details of the direct testimony they
12 had given and told why we wanted to cross-examine them.
13 Budarin was not named. It was not a blanket motion.

14 THE PRESIDENT: The defense do not want to
15 cross-examine him, the Tribunal do not want him cross-
16 examined, so there is no reason why he should not
17 return to Russia or wherever he is going as soon as
18 transportation is available.

19 GENERAL VASILIEV: I am satisfied, with the
20 permission of the Tribunal, that the witness Budarin
21 be produced before the Court. If the defense does
22 not desire to cross-examine the witness, taking into
23 consideration that the witness has especially arrived
24 in Tokyo, the prosecution desires --
25

THE PRESIDENT: You mean to further examine

him.

1 THE RUSSIAN INTERPRETER: "...the prosecution
2 desires --" The Russian prosecutor hasn't completed
3 the sentence.

4 GENERAL VASILIEV: -- first, that the witness
5 confirm his affidavit under oath, to read those
6 parts of the affidavit not previously read into the
7 transcript.
8

9 I state once more that the defense filed
10 a blanket motion and the witness Budarin was included
11 in that motion. Obviously the defense have changed
12 their minds now and the decision of the Tribunal
13 concerns all the witnesses.

14 MR. FURNESS: I state once again, your Honor,
15 the record states for itself. The Court can read
16 the motion. We have not changed our minds. We did
17 not want to cross-examine him in the beginning. We
18 don't want to cross-examine him now. To put him on
19 the stand to be sworn again when his affidavit is
20 apparently already on oath, seems to us a waste of time.
21 The remaining parts are already in evidence even
22 though not read.
23

24 THE PRESIDENT: I have received no intimation
25 from any Member of the Tribunal that he desires that
this witness be called for any purpose whatsoever.

1 A majority of the Tribunal are against
2 you, General. I have received notes in the meantime
3 indicating that at least one or two Members would
4 be prepared to hear you, but a majority are against
5 calling him for any purpose whatsoever.

6 Captain Brooks.

7 - - -

8 K U N I A K I K O I S O, an accused, resumed the
9 stand and testified through Japanese inter-
10 preters as follows:

11 MR. BROOKS: I will continue reading from
12 page 22, paragraph 23 of the English text of exhibit
13 3375:

14 "23. In relation to my answer to the question
15 on the Southern expansion raised by Mr. FUKUDA, Member
16 of the House of Representatives, in the 75th Session
17 of the Diet on 17 March, 1940, Court exhibit 2215-A,
18 the reply I made at the outset that I agreed with
19 him did not mean that I approved of the method proposed
20 by that member, but it meant that I only agreed that
21 it was necessary to pay attention to economic movement
22 in the south. This is proved by the very contents
23 of my reply. The fact that I held the opinion that
24 the Southern regions were not suitable for large-scale
25 Japanese emmigration because of climate and customs

1 is also clear from the contents of my reply. Further-
2 more, it is needless to say that there was no
3 military significance to this discussion, as may be
4 seen by reading the whole discussion which took
5 place at the time, as it only deals with purely
6 economic problems of commerce and emmigration.

7 "24. According to Court exhibit 1309, page
8 16, it is said that the arrangement of sending
9 Ambassador SAWADA to Dutch East Indies as the Economic
10 Envoy in July, 1940 was dropped because of myself.
11 However, I did not know that Ambassador SAWADA had
12 been intended to be the Envoy, nor did I know that
13 the plan was changed later. Also I declined the offer
14 of the Prime Minister and the Foreign Minister when
15 I was requested to become Economic Envoy because
16 I was not suited for it.

17 "25. I was Prime Minister from 22 July,
18 1944 to 7 April, 1945.

19 "The matters mentioned in exhibit 661 were
20 decided by the Supreme Council on 1 February, 1945.
21 In view of the necessity that some measures should
22 be taken to defend French Indo-China for self-subsistence
23 and defense in the face of a situation where the
24 United States forces had already landed in the
25 Philippines at that time, and their planes were at

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2 more, it is needless to say that there was no
3 military significance to this discussion, as may be
4 seen by reading the whole discussion which took
5 place at the time, as it only deals with purely
6 economic problems of commerce and emmigration.

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9 Ambassador SAWADA to Dutch East Indies as the Economic
10 Envoy in July, 1940 was dropped because of myself.
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12 been intended to be the Envoy, nor did I know that
13 the plan was changed later. Also I declined the offer
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16 I was not suited for it.

17 "25. I was Prime Minister from 22 July,
18 1944 to 7 April, 1945.

19 "The matters mentioned in exhibit 661 were
20 decided by the Supreme Council on 1 February, 1945.
21 In view of the necessity that some measures should
22 be taken to defend French Indo-China for self-subsistence
23 and defense in the face of a situation where the
24 United States forces had already landed in the
25 Philippines at that time, and their planes were at

1 times raiding French Indo-China, and possibility
2 existed of American landing at any time in French
3 Indo-China, coupled with the attitude of the French
4 Indo-China forces which became decidedly non-
5 cooperative with our forces it had been decided
6 at the Supreme Council for the Direction of War
7 that measures be taken to have the armed forces
8 and constabulary in French Indo-China reorganized
9 and placed under control of a Japanese Army Commander,
10 but to leave the date and the execution of this
11 decision to the consultation and decision of the
12 Army Commander and the diplomatic representatives
13 on the spot, who should obtain the consent of the
14 Governor-General of French Indo-China to our request
15 at this time and to make efforts to arrange by
16 peaceful means to put it into execution, and such
17 measures were taken by the authorities on the spot
18 on March 9, 1945, but I had no connection therewith
19 or responsibility therefor, as its execution was
20 within the competence of the Supreme Command.
21
22
23
24
25

1 "26. In relation to the treatment of
2 prisoners of war and internees.

3 "The responsibility for the treatment of the
4 prisoners of war and internees rested with those con-
5 cerned with the Central Command, and the Prime Mini-
6 ster could not participate in matters concerning
7 the Command according to stipulations in the former
8 Japanese constitution. I was allowed to attend the
9 Imperial Headquarters by Imperial command on 16
10 March 1945 (20th Year of Showa) only three weeks
11 before my resignation as Prime Minister. This privi-
12 lege was confined however to listening to reports
13 on the progress of war operations and did not allow
14 me to participate directly in the Supreme Command.
15 Thus I had no responsibility for the treatment of
16 prisoners of war and during the three or four meetings
17 of the Staff Officers of the Imperial Headquarters
18 that I was allowed to attend (they were held twice
19 per week), I was not informed even once about any
20 problem of mistreatment of prisoners of war, at least
21 there was no discussion of such matters at any meet-
22 ing at which I was present.

24 "The prosecution alleges that matters con-
25 cerning atrocities and mistreatment of prisoners of
war were well known before I was appointed Prime

1 Minister, but in fact there was no public knowledge
2 about such matters. Especially I knew nothing about
3 them since I was located in Korea from May, 1942
4 (17th Year of Showa) to July, 1944 (19th Year of
5 Showa). I believe that only those directly in charge
6 of prisoners knew about the existence of such problems.
7 Also the possession of short-wave radios was pro-
8 hibited as a security measure for maintenance of
9 peace and order as to both civilians and officials
10 alike, and I did not possess a short-wave radio nor
11 did I hear the Eden broadcasts, nor was any report
12 ever made to me about such matters.

13 "Censorship on the publicity of information
14 may also account for lack of public knowledge about
15 such matters.

16 "Furthermore the notification to be issued
17 by the Vice-Minister of War on the treatment of
18 prisoners of war according to court exhibit 2012,
19 exhibit 2013 and exhibit 2014 was outside of the scope
20 of the duties of the Prime Minister, and was not of
21 a nature required to be reported to me.

22 "The dates cited by the prosecution of almost
23 all of the protests or inquiries from foreign
24 countries regarding the treatment and services of
25 prisoners of war, sea victims and internees in general

1 Minister, but in fact there was no public knowledge
2 about such matters. Especially I knew nothing about
3 them since I was located in Korea from May, 1942
4 (17th Year of Showa) to July, 1944 (19th Year of
5 Showa). I believe that only those directly in charge
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21 a nature required to be reported to me.

22 "The dates cited by the prosecution of almost
23 all of the protests or inquiries from foreign
24 countries regarding the treatment and services of
25 prisoners of war, sea victims and internees in general

1 came at the time when I was not Prime Minister and
2 even if a few might have come during my tenure as
3 Prime Minister, I received no reports about them
4 from the Foreign Minister. Therefore I knew nothing
5 about those matters and therefore I did not investi-
6 gate as to what action was taken in relation there-
7 to.

8 "I firmly believed that prisoners of war
9 were being treated properly by our country because
10 of the established customs for treatment of prisoners
11 of war, which had always been praiseworthy. Such
12 cases described in this court of cruel and inhuman
13 acts were beyond my imagination, and it never
14 occurred to me to suggest any investigation to
15 those concerned with such matters, during my tenure
16 as Prime Minister.

17 "27. In December, 1941 (16th Year of Showa)
18 I was invited to a party by my acquaintance,
19 YAMANAKA, Yuzaburo, and there I expressed my cherished
20 view opposing the opening of hostilities. I said
21 that it was my desire to avert the opening of war
22 against America and Great Britain to the utmost
23 degree and stated my reasons therefor.

24 "Mrs. YAMANAKA, who was present at the
25 party that night, recollected my view advocating the

1 prevention of war against America and Great Britain
2 and wrote a letter to my wife stating that she re-
3 called what I said and that I was far-sighted.

4 "On receiving word that I was to stand
5 trial, I went voluntarily to Sugamo Prison on 23
6 November 1945 (20th Year of Showa) and at that time
7 I had that letter with me, thinking that it might
8 serve as evidence in my behalf. When my personal
9 belongings were examined, I made a plea that I
10 wanted to keep the letter with me since it was my
11 personal documentary evidence. But it was taken
12 away from me by the prison authorities who said that
13 it would be returned when necessary. After this
14 Tribunal opened, I approached the prison authorities
15 through the American counsel and asked for the return
16 of the letter, but I regret to say I have been unable
17 to get it back, since we are told it has been lost."

18 I wish to state that both the defense and
19 the prosecution are endeavoring to find this letter
20 mentioned above, and if it is found we will offer it
21 in evidence to substantiate the statement in para-
22 graph 27 of this exhibit.

23 I will not read the next paragraph on page
24 26, starting with the words "Besides the above,"
25 since the documents referred to as lost by the

1 prosecution have been found and made available to me
2 in the last few days, and we are having translations
3 prepared of the said documents at the present time --
4 the 24th of September, your Honor, when I had the
5 documents turned over to me.

6 I will continue reading with the last para-
7 graph at the bottom of page 26:

8 "The fact I consistently maintained a view
9 opposing the commencement of war against America
10 and Great Britain can be shown in the latter part of
11 a statement of Major-General F. S. G. Piggot, Military
12 Attache to the British Embassy in Tokyo. The state-
13 ment shows that when the said General visited me in
14 my house in spring in 1939 (14th Year of Showa) I
15 informally expressed my opinion that our relations
16 with America and Great Britain must be improved for
17 the happiness and interests of the three nations and
18 that such improvement must be achieved through peace-
19 ful negotiations and we must by all means avoid resort-
20 ing to arms.

21 "28. Court exhibit 277 states that in the
22 administrative policy speech which I delivered to the
23 Diet on 7 September 1944 (19th Year of Showa) as Prime
24 Minister, I declared that the independence of the
25 Netherlands East Indies would be recognized.

1 "The facts were as follows: According to
2 reports to the military administration, the natives
3 had long wished for independence, they had been ex-
4 tending wholehearted co-operation to the military
5 officials and their national consciousness had in-
6 creased markedly. On consultation, the Supreme
7 Council for Direction of War agreed that in order to
8 establish the welfare and prosperity of these races,
9 it was very necessary to take steps to recognize their
10 independence. Therefore, I submitted this matter to
11 the Cabinet Conference and obtained its approval, so
12 I made a statement of this policy to the Diet and
13 steps were taken to prepare for its effectuation.

14 "Also in this speech on administrative policy
15 it is stated towards the end of the second paragraph
16 that 'Concentrating all efforts, I wish to gather
17 the national strength together with a harmonious
18 national unity to achieve the war's end, in accordance
19 with the expected operation of our armed forces, which
20 will soon be realized, to destroy America and Britain.'

21 "I submit that this is a speech any Premier
22 would make under the circumstances, for at the time
23 of my taking office we were fighting on the defensive
24 and the allied powers threatened to destroy Japan.
25

"My real intention behind this statement in

1 another way was that we can no longer hope for the
2 last victory for the war so now that our army and
3 navy are anticipating a decisive battle in the near
4 future, if they would destroy even temporarily the
5 advancing power of the enemy it may be that by taking
6 advantage of such an opportunity we may plan to bring
7 the termination of war and thus arrange for a nego-
8 tiated peace. This idea was maintained not only by
9 myself alone, but also by members of the Supreme
10 Council for Direction of War, and by members in the
11 Cabinet as well.
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1 "The Council for Direction of War also decided
2 to devise two schemes for the realization of future
3 peace. This serves to prove that the Supreme Command
4 also had the will to end the war and make peace.

5 "And one of those measures to realize peace
6 was through the good offices of the Chungking administra-
7 tion, and the other through the Soviet Union. It was
8 my plan that if fortunately both of these peace measures
9 bid fair to be successful, the one through the Chung-
10 king administration would be limited to the realization
11 of peace between Japan and China upon negotiations with
12 Chungking, while the conclusion of peace in the Pacific
13 War would be primarily through the mediation of the
14 Soviet Union. For this purpose, on the one hand we
15 hastened to establish a direct communication route with
16 Chungking, while on the other hand we endeavored to
17 dispatch proper representatives to the Soviet Union, in
18 addition to our ambassador already stationed there, and
19 thus we set about the preparations for the termination
20 of war and restoration of peace.

21 "However, the project of the army and navy
22 which was to destroy the advancing power of the enemy
23 ended in a failure in the Philippines and the adjacent
24 areas, and all the measures for the project of the
25 termination of war and making peace confronted various

1 obstacles and could not effect a speedy progress.

2 "During all this time, the war situation turned
3 out to be increasingly unfavorable day by day. There-
4 fore, I devised, by way of some new methods, to bring
5 about further adjustment and harmonization of state
6 policy and the Supreme Command and also the increased
7 production of munitions and foodstuff. Hereby, in a
8 natural way, we would be enabled to hold an accurate
9 notion as to the substance of our war potential of
10 state, whereupon it was my desire to make a prompt de-
11 cision of future policy. As to the harmonization of
12 state policy and the Supreme Command, I had obtained the
13 Imperial Sanction previously to create the Supreme War
14 Directing Council which was to be a more simplified and
15 powerful organ as compared with the Liaison Council of
16 the government and the Supreme Command. With regard to
17 the increased production of munitions and foodstuff, all
18 efforts were concentrated to achieve this purpose in
19 accordance with the harmonious unity of our cabinet
20 members in utilizing and directing manpower and material
21 power in the full.
22

23 "However, the Supreme War Directing Council did
24 not come up to my expectations and was ineffective in
25 its operations and the Supreme Command was prone to
develop into unexpected directions without the least

1 obstacles and could not effect a speedy progress.

2 "During all this time, the war situation turned
3 out to be increasingly unfavorable day by day. There-
4 fore, I devised, by way of some new methods, to bring
5 about further adjustment and harmonization of state
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17 the increased production of munitions and foodstuff, all
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19 accordance with the harmonious unity of our cabinet
20 members in utilizing and directing manpower and material
21 power in the full.
22

23 "However, the Supreme War Directing Council did
24 not come up to my expectations and was ineffective in
25 its operations and the Supreme Command was prone to
develop into unexpected directions without the least

1 knowledge of the Premier. Also, reduction of our war
2 potential was seen to be accelerated, owing to exclusive-
3 ly increasing damages by bombing on our manufacturing
4 establishment and function. Hereupon, for the purpose
5 of eliminating the defective point of the former, I was
6 authorized to attend the Imperial Headquarters confer-
7 ence by order of the Imperial Command, yet being bound
8 by the provisions of the constitution, I was given no
9 opportunity to take active part in matters pertaining
10 to military operations and tactics. On the other hand,
11 in order to improve defects of the latter, every effort
12 was made to remove manufacturing establishments to
13 places of safety, especially underground, but being
14 confronted with difficulties in problems concerning
15 materials and labor and in transporting capacity we
16 were hardly able to attain expected results.

17
18 "However, a War Minister, being engaged in
19 affairs related both to state policy and the Supreme
20 Command, could not only be well informed of the war
21 potential in material but also be aware of even the
22 secrets of the plans with regard to operations and
23 tactics of the Supreme Command in advance of their de-
24 cision through his routine though delicate business.

25 "On the other hand, he was authorized, at the
same time, in the scope of military administration, to

1 knowledge of the Premier. Also, reduction of our war
2 potential was seen to be accelerated, owing to exclusive-
3 ly increasing damages by bombing on our manufacturing
4 establishment and function. Hereupon, for the purpose
5 of eliminating the defective point of the former, I was
6 authorized to attend the Imperial Headquarters confer-
7 ence by order of the Imperial Command, yet being bound
8 by the provisions of the constitution, I was given no
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18 "However, a War Minister, being engaged in
19 affairs related both to state policy and the Supreme
20 Command, could not only be well informed of the war
21 potential in material but also be aware of even the
22 secrets of the plans with regard to operations and
23 tactics of the Supreme Command in advance of their de-
24 cision through his routine though delicate business.

25 "On the other hand, he was authorized, at the
same time, in the scope of military administration, to

1 apply military force, equipment and transporting
2 capacity occasionally to fields most necessary on view
3 of strengthening the war potential. Hereupon, I asked
4 for the Imperial Sanction to return me to the active
5 list so I could hold the additional post of War
6 Minister, though it had been felt a little too late. I,
7 as Premier, was resolved to extirpate the two big de-
8 fects, whereby to grasp the true situation of the real
9 war potential of state and thus to prosecute my policy
10 since the time of the formation of the cabinet.

11 "On 3 April 1945 I suggested to War Minister
12 SUGIYAMA the effectuation of the plan of the Premier's
13 holding the additional post of War Minister, but met his
14 opposition. Thereupon, upon consultation with Admiral
15 YONAI, cooperator in this joint cabinet, I applied for
16 resigning from the post of Prime Minister, wishing ever
17 more for the realization of such a new and powerful
18 cabinet such as I had in mind, and on 5 April 1945 the
19 cabinet applied for resigning en bloc, and I resigned
20 from the post of Prime Minister, and thus permanently
21 withdrew from public life.

22
23 "29. At no time did I ever have any conversa-
24 tion with any of the other accused or anyone else in-
25 volving the planning, scheming and conspiring, as alleged
in the Indictment.

1 "I had no official or personal relationship
2 with the following accused:

3 "DOIHARA, HASHIMOTO, HOSHINO, KAYA, KIMURA,
4 MUTO, OKA, OSHIMA, SHIMADA, TOGO and TOJO.

5 "I did not become acquainted either officially
6 or personally with the other accused until the follow-
7 ing dates:

8 "MINAMI, December 1889; HATA, December 1908;
9 ARAKI, 1918; MATSUI, August 1920; UMEZU, April 1925;
10 SATO, August 1929; SUZUKI, August 1930; SHIRATORI, Sep-
11 tember 1931; KIDO, April 1932; HIRANUMA, August 1932;
12 ITAGAKI, August 1932; HIROTA, July 1944; SHIGEMITSU,
13 July 1944."

14 I have a few additional questions on matters
15 mentioned in exhibit 3340, at page 247, KIDO's affi-
16 davit, upon which I examined KIDO at record page 31,242
17 to 31,248.

18 Q Mr. KOISO, what have you to say about the
19 reliability of Miao Pin, and did you have any method
20 for testing or checking as to his reliability?
21

22 A From the facts which I will set forth below,
23 I believe there were considerable reasons for placing
24 reliability on Miao Pin.

25 The first fact is that I had occasion to meet
him twice in the year 1939, and learned on those

1 occasions that Miao Pin was a staunch advocate of
2 Japanese-Chinese friendship and conciliation, and in
3 addition was a very close friend of one of the leaders
4 in the Chungking Government, Ho Ying-chin.

5 The second fact is that, although he was
6 nominated president of the Legislative Yuan of the Nan-
7 king Regime under the leadership of Mr. Wang Chingwei, he
8 was demoted to the post of Chief of the Examination
9 Board -- Vice-Chief. And the reason for his demotion
10 was that he had intercourse with the Chungking Regime.

11 The third fact is that he constantly kept con-
12 tact with Chungking by skilful use of wireless sending
13 and receiving apparatus, and in addition people were
14 being dispatched to him from Chungking from time to
15 time -- a liaison person was being dispatched from time
16 to time from Chungking.

17 The fourth fact is that upon his arrival in
18 Tokyo he showed me that he had a telegram from Chung-
19 king stating that the Chungking Regime approved of his
20 coming to Tokyo, but that he, under no circumstances,
21 should go beyond the scope of the peace terms stipulated
22 by the Chungking Government.

23
24 Q What were those terms, General?

25 A There were six points in the peace terms said
to have been set forth by the Chungking Government:

1 First, with regard to the Manchurian question,
2 a separate agreement shall be made.

3 The second term was that Japan would complete-
4 ly withdraw her forces from China.

5 The third term was that the Japanese Govern-
6 ment shall detain all the leaders of the Wang Chingwei
7 Regime in Nanking, in Japan.

8 The fourth term was that the Chungking Regime
9 will establish in Nanking, for the time being, a govern-
10 ment in absentia, and place in that government leaders
11 of the Chungking Government.

12 The fifth term was that the Chungking Govern-
13 ment will return to Nanking within a period of three
14 months.

15 The sixth term was that Japan shall make peace
16 with the United States and Great Britain.
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1 Q You were making direct peace negotiations,
2 were you not?

3 A I endeavored to establish a direct line of
4 communication with the Chungking Government by taking
5 advantage of the services of Miao Pin.

6 Q Were your projected peace moves opposed?

7 A I invited Miao Pin to Japan with the approval
8 and agreement of the Ministers of War, Navy, and
9 Foreign Affairs. However, after Miao Pin had been in-
10 vited to Tokyo -- and I did not know what transpired
11 meanwhile, but when these three ministers were re-
12 ceived in audience by the Emperor, they expressed
13 disapproval of the idea.

14 Q This was in April, 1945, was it not?

15 A I think it was in the first part of April
16 that these three ministers expressed their opposition.

17 Q Was that before the report you made to the
18 Throne on your plan for direct peace negotiations?
19 I think KIDO testified it was April 2, 1945.

20 A I think it was on March 27 that I first re-
21 ported to the Throne in connection with the Miao Pin
22 matter.

23 Q What happened? Was the Emperor in favor of
24 it or not?
25

 A At that time His Majesty did not express

1 approval or disapproval but asked me whether I intend-
2 ed to continue my peace efforts through Miao Pin, and
3 I replied to him that that was my intention.

4 Q What happened at the later meeting? Were you
5 reprimanded or rebuked in any way?

6 A I think it was on the 2nd of April that I was
7 summoned to the Imperial Palace and was given an audience
8 by His Majesty the Emperor, and on that occasion he
9 said that the War, Navy, and Foreign Ministers had
10 separately expressed to the Throne their respective
11 disagreement and disapproval of the idea. Upon telling
12 me that, His Majesty instructed me to return Miao Pin
13 immediately to China, but he did not rebuke me.

14 Q What other peace plans did you try as to the
15 United States and Great Britain, and were these also
16 opposed?

17 A I made efforts to send to Moscow, in the
18 U.S.S.R, in addition to the ambassador already sta-
19 tioned there, an able special envoy to make prepara-
20 tions for peace moves vis a vis the United States and
21 Great Britain. I had Ambassador SATO in Moscow bring
22 this up with the People's Commissar for Foreign Affairs
23 of the Soviet Union, but this met refusal on the part
24 of the Soviet authorities in a very roundabout manner.
25

Q Now, why did you seek reinstatement into

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2 ed to continue my peace efforts through Miao Pin, and
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21 Great Britain. I had Ambassador SATO in Moscow bring
22 this up with the People's Commissar for Foreign Affairs
23 of the Soviet Union, but this met refusal on the part
24 of the Soviet authorities in a very roundabout manner.
25

Q Now, why did you seek reinstatement into

1 active service? Was it for the purpose of redoubling
2 your efforts for the prosecution of the war, as testi-
3 fied by KIDO, exhibit 3340, page 31,248, paragraph
4 281, or was it for other reasons?

5 A The testimony of the accused KIDO is wrong.
6 My idea in connection with this matter has already been
7 set forth in my affidavit. By holding the office of
8 the Minister of War concurrently, my intention was,
9 on the one hand, to bring about an increased pro-
10 duction -- increased war production, and on the other
11 hand, to be able from the standpoint of the High Command
12 to get an overall picture and understanding of the
13 national strength and fighting power, and on the basis
14 of this I wished to decide whether it would be prefer-
15 able immediately to bring a termination of the war and
16 make peace or, as the army advocated, to hold the final
17 and decisive battle on the mainland of Japan and then
18 bring about a termination of the war.

19
20 Q You would have had a means of knowing secret
21 plans as War Minister that you did not have as Prime
22 Minister, is that correct?

23 A As I have already set forth in my affidavit,
24 the Minister of War and the Minister of the Navy, be-
25 cause they handled matters of state and at the same time
matters of the High Command, as a means of bringing

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2 your efforts for the prosecution of the war, as testi-
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17 and decisive battle on the mainland of Japan and then
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20 plans as War Minister that you did not have as Prime
21 Minister, is that correct?

22 A As I have already set forth in my affidavit,
23 the Minister of War and the Minister of the Navy, be-
24 cause they handled matters of state and at the same time
25 matters of the High Command, as a means of bringing

1 about harmony and coordination between the two are
2 able to know in advance military plans and operations,
3 as well as tactics, before any decision is reached on
4 such plans.

5 Q It would be necessary to have control more
6 or less in the event that you were working out peace
7 plans, would it not?

8 A Yes, it was very necessary in order to under-
9 stand and fully grasp the relationship of war, on the
10 one hand, and the termination of war on the other.

11 Q And following this opposition, your cabinet
12 resigned, then, on the 5th of April, 1945?

13 A Yes.

14 MR. BROOKS: You may cross-examine.

15 THE PRESIDENT: Major Furness.

16 CROSS-EXAMINATION

17 BY MR. FURNESS:

18 Q I want to ask you one question, General KOISO.
19 Do you know what happened to Miao Pin after the war?

20 A I do not know.

21 Q Do you not know that he was tried, convicted,
22 and executed as a traitor to the Chungking China Republic?

23 A I don't know anything exact. I have heard,
24 however, that there was some report to that effect in
25 the newspapers.

1 MR. FURNESS: If your Honor please, I had
2 no idea that this was coming up, from the affidavit.
3 I may wish to cross-examine later after I have seen
4 the record.

5 THE PRESIDENT: Were you really cross-examin-
6 ing on behalf of all the defendants?

7 MR. FURNESS: No, sir, I was not, but I read
8 the affidavit and I did not intend to ask any ques-
9 tions.

10 THE PRESIDENT: You are examining for
11 SHIGEMITSU, we take it?

12 MR. FURNESS: Yes.
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1 MR. YAMADA: May I ask a few questions for
2 the defendant ITAGAKI by way of additional direct
3 examination?

4 DIRECT EXAMINATION (Continued)

5 BY MR. YAMADA:

6 Q The March Incident of which you speak in
7 paragraph 3 of your affidavit, did that have anything
8 to do with the so-called Manchurian Incident?

9 THE MONITOR: No, slight correction. The
10 March Incident of which you speak in the third para-
11 graph in your affidavit, did that have the Manchurian
12 Incident in object?

13 A In so far as I know, it has nothing whatsoever
14 to do with the Manchurian Incident.

15 THE PRESIDENT: That is repetitive and
16 unnecessary examination.

17 Q Was a single officer of the Kwantung Army
18 connected in any way with the so-called March Incident,
19 the October Incident, the May 15 Incident or the
20 February 26 Incident?

21 A In so far as I know I have never heard of
22 any Kwantung Army officer participating or being
23 connected in any way with any of the incidents just
24 named by you.
25

THE PRESIDENT: Mr. Logan.

DIRECT EXAMINATION (Continued)

1 BY MR. LOGAN:

2 Q General KOISO, it is a fact, is it not,
3 that you did seek reinstatement in active service?

4 MR. BROOKS: I object to that, your Honor,
5 as repetitious. It is stated in both his affidavit
6 and on the stand.

7 MR. LOGAN: It is just a preliminary question,
8 your Honor.

9 Q And you did seek concurrent appointment as
10 War Minister, is that right?

11 A With regard to my holding the post of War
12 Minister concurrently, I had talks and negotiations
13 with General SUGIYAMA because if that was not possible
14 there was no need for my making application for re-
15 instatement into active service. Therefore, I did not
16 make any application for reinstatement into active
17 service.

18 Q But you sought it from General SUGIYAMA,
19 didn't you, without making an actual application for
20 it; isn't that true?

21 A Expression of the desire to hold the post of
22 War Minister concurrently amounts to asking for rein-
23 statement into active service.

24 Q At that time, General, the war situation was
25

1 deteriorating and growing worse and worse against
2 Japan, is that true?

3 A As you say.

4 Q And you were anxious to try to bolster up
5 the army at that time, weren't you; to do something
6 to stave off defeat?

7 A That was to increase war production.

8 MR. LOGAN: That is all.

9 COLONEL FIXEL: If it please the Tribunal,
10 the prosecution would like to cross-examine the
11 witness.
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CROSS-EXAMINATION

1 BY COLONEL FIXEL:

2 Q Witness, were you convinced of Miao Pin's
3 authority to act as a liaison for the Chungking
4 Government?

5 A I have already told the Court in connection
6 with the reliability of Miao Pin. But, because I
7 was unable to trust him one hundred per cent, I made
8 various efforts to ascertain whether he was actually
9 a trustworthy agent.
10

11 Q And isn't it true that one of the matters
12 that you wanted to confirm was his authority from
13 Chungking, and is it not also true that the only way
14 you could check this was to get into radio communica-
15 tion with Chungking?

16 A It is generally as you presume, but I think
17 some words of additional explanation should be made.
18 May I add that remark?

19 Q Certainly.

20 A As I have said before, Miao Pin was for the
21 most part a person related with the Nanking Regime --
22 originally related to the Nanking Regime, and at
23 first it was my idea that Miao Pin did not have the
24 qualifications to act as representative of China in
25 connection with peace between Japan and China. The

1 utilization of Miao Pin was only to the extent of es-
2 tablishing a direct line of communication between us
3 and Chungking. If such a contact would be estab-
4 lished, it was my intention to bring the matter up
5 before the Supreme Council for the direction of war
6 to study and to discuss terms of peace; and unless
7 China, that is to say the Chungking Government, sent
8 us a bona fide representative, it was not our inten-
9 tion to enter into peace talks.

10 Q Well, you wanted to be sure that this man
11 was a bona fide representative of Chungking, isn't
12 that right?

13 A No, not so.

14 Q You assumed that he was an authorized repre-
15 sentative to act as liaison, is that correct?

16 A May I have the question repeated?

17 COLONEL FIXEL: Will the reporter please
18 repeat the question.
19

20 (Whereupon, the Japanese reporter
21 read.)

22 A (Continuing) It appears that my previous
23 reply seems not to have been sufficiently understood.
24 May I repeat again that I, nor the Japanese Govern-
25 ment, did not consider Miao Pin as a representative of
the Chungking Government in connection with peace

1 between Japan and China. Our only intention was to
2 utilize him for the purpose of establishing a direct
3 line of communication between the Japanese Government
4 and the Chinese Government in Chungking.

5 Q And isn't it true that you even had sus-
6 picions that he had any form of contact with Chung-
7 king as he claimed?

8 THE PRESIDENT: You mean doubt, Colonel, I
9 take it.

10 COLONEL FIXEL: I beg your pardon? Yes,
11 that's correct.

12 A Yes, I entertained doubts.

13 THE PRESIDENT: We will recess for fifteen
14 minutes.

15 (Whereupon, at 1045, a recess
16 was taken until 1115, after which the pro-
17 ceedings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Colonel Fixel.

4 COLONEL FIXEL: May I proceed?

5 THE PRESIDENT: Yes.

6 BY COLONEL FIXEL (Continued):

7 Q Witness, have you completed your answer to
8 the last question?

9 A No, I have not. May I continue?

10 Q Yes.

11 A I entertained doubts whether Miao Pin was
12 actually and surely maintaining radio communication
13 with Chungking with the wireless apparatus that he
14 had in his possession. And so I arranged to have Miao
15 Pin when coming to Tokyo to bring along with him his
16 wireless apparatus and his operator and had him ac-
17 tually communicate through this apparatus with Chung-
18 king and at the same time had our own wireless sta-
19 tions intercept the message to find out whether every-
20 thing was bona fide.

22 Q Isn't it a fact that Miao Pin came to Tokyo
23 without his radio apparatus, and that the Japanese
24 refused to fly his apparatus to Japan from Shanghai?

25 A In my affidavit I have stated that there
were various impediments in the way. It was scheduled

1 that Miao Pin in coming to Tokyo was to bring his
2 wireless apparatus, the operator of the apparatus,
3 and a representative dispatched from Chungking. But
4 because he alone came, further steps were being taken
5 in preparation to bring the radio apparatus and the
6 operating personnel later on.

7 Q Didn't you previously testify that he brought
8 his apparatus, and that by means of this radio appara-
9 tus he was able to communicate with Chungking?

10 A Miao Pin said that he was able to communicate
11 with Chungking by means of his wireless apparatus.
12 But unless we actually tested it, it was impossible
13 for us to ascertain whether or not he was actually in
14 a position so to do. And since we could not test that
15 we were unable to ascertain that.

16 Q Are you through with the answer to the ques-
17 tion that was asked before the recess?

18 A May I be permitted to speak of one other
19 method that was used to make a test?

20 In speaking of this method I might say that
21 we got information that there was a person owning a
22 wireless apparatus in Peking in North China and that
23 he was in communication with Chungking. So we were
24 also making efforts to make preparations to bring to
25 Tokyo from Peking the personnel and the apparatus which
we were told were in Peking.

1 Q We will proceed to another matter now. Were
2 you a director of the Kokuhonsha Society?

3 A I couldn't hear. Did you say director?

4 Q Yes.

5 A I have no recollection of ever being named
6 a director.

7 Q Did you hold any office in that society?

8 A No.

9 THE PRESIDENT: Were you a member?

10 THE WITNESS: At the time I was a regimental
11 commander I became a member of the society purely out
12 of desire to read a magazine published by the organiza-
13 tion called the Kokuhon.

14 Q Do you recall approximately what period of
15 time you were a member of the organization?

16 A I think it was in 1938 that I became a member.
17 No, I have made a mistake. It is the 13th year of
18 Taisho or 1924.

19 Q How long did you remain a member of that
20 organization?

21 A I do not know when the Kokuhonsha was dissolved
22 but I think I continued to be listed in its membership
23 until the society disappeared.

24 Q Did you ever attend any meetings of that organ-
25 ization?

1 A Yes, just once.

2 Q And was that the meeting in July of 1931 when
3 the accused MINAMI was a speaker before that organiza-
4 tion meeting?

5 A I have not attended a meeting at which the
6 accused MINAMI was a speaker.

7 Q Did you ever attend a meeting at which the
8 accused MINAMI was also in attendance?

9 A As I have said before, I attended a meeting
10 of the Kokuhonsha only once and I have no recollection
11 whether the accused MINAMI was there or not.

12 Q At that meeting which you attended was the
13 accused HIRANUMA present?

14 A Yes.

15 Q And was the accused ARAKI present?

16 A I do not know whether or not the accused
17 ARAKI was there.

18 Q Do you know that the accused ARAKI was a
19 director of that organization?

20 A I have no positive recollection.

21 Q And did you not know that the accused HIRANUMA
22 was president of the Kokuhonsha?
23

24 A Yes, I do.

25 Q Now, were not the purposes of the Kokuhonsha
mainly to foster the spirit of nationalism, to bolster

the foundations of the state and to exalt the national
1 spirit?

2 A Nobody has ever explained to me the real
3 character or nature of the Kokuhonsha but from what I
4 judge -- from what I have read in the magazine published
5 by the organization, the Kokuhon, and as this title
6 indicates my understanding was that the purpose of this
7 organization was to support a proper and true understand-
8 ing of the true nature and spirit of Japan and its
9 members.
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1 Q And did that particularly interest you as
2 a regimental officer to the point that you joined
3 the organization?

4 A At that time the Japanese domestic situa-
5 tion was more or less confusing, and the Kokutai,
6 that is to say, the fundamental character of the
7 Japanese state was not fully clarified, and I thought
8 that it was a good thing to secure an understanding
9 of the true character and spirit of Japan through
10 the magazine published by the organization, and that
11 is what led to my membership in the organization.

12 Q Did you find that after you had joined this
13 organization that the organization hoped to accom-
14 plish its aims in part by taking political measures?

15 A It was my understanding that that was
16 absolutely not the case.

17 Q Did you become interested in May of 1932 in
18 the advocacy of the accused HIRANUMA as Premier of
19 Japan?

20 A I have no recollection, but I might possibly
21 have said that the leader of the next Cabinet should
22 be such and such a person.

23 THE MONITOR: When asked, "Who do you think
24 would be good as the next Premier?" I might have
25 replied, "HIRANUMA might be the best man."

1 Q Do you recall whether you made such a
2 statement to the accused KIDO?

3 A No.

4 Q Who did you make the statement to, if you
5 recall?

6 A I cannot recall.

7 Q At the time you made the statement at
8 ~~last~~ expressing your opinion that HIRANUMA would be
9 a suitable party for the office of Premier, you were
10 Vice-War Minister of the War Ministry, were you not?

11 A I do not recollect.

12 MR. BROOKS: I was going to object to
13 further questions along this line on the basis that
14 he says he doesn't recollect making any such state-
15 ment, and that any further testimony along that line
16 would be irrelevant and immaterial.

17 THE PRESIDENT: It depends on the nature of
18 the subject matter and his acquaintance with it
19 whether he can be pressed or not.

20 COLONEL FIXEL: I think, if the Tribunal
21 please, I can connect this up with the witness. I
22 would like permission to proceed.

23 THE PRESIDENT: Proceed.

24 Q In your affidavit you said that you first
25 met KIDO in April 1932, and it appears that KIDO

1 recorded in his diary in May 1932, the following
2 month, that you seemed to be in favor of HIRANUMA
3 for Premier. Will you state the circumstances under
4 which you met KIDO and what conversation passed be-
5 tween you at the time you met him in April 1932?

6 THE PRESIDENT: You may have an apprecia-
7 tion of the value of that that is not apparent to
8 me, Colonel.

9 COLONEL FIXEL: The importance of this, if
10 the Tribunal please --

11 THE PRESIDENT: Well, you need not tell me.
12 You can proceed with your cross-examination.

13 COLONEL FIXEL: I have very little more,
14 but I think I can connect it.

15 THE WITNESS: May I reply?

16 COLONEL FIXEL: Yes.

17 A Then let me explain how I first met KIDO.

18 The Parliamentary Vice-Minister of War by
19 the name of DOKI, Akira, told me that members of the
20 House of Peers holding peerage titles were meeting
21 at the Kazankan, and invited me to go there with him.
22 When I went to this place I found a large group of
23 people, among whom was KIDO. After that I have seen
24 KIDO from time to time, but in my recollection the
25 first time that I ever talked with him was in 1939

when we were in the same EIRANUMA Cabinet.

1 Q Was the Premiership of Japan a political
2 office?

3 THE PRESIDENT: It is going to be hard to
4 convince us that it was not.

5 A That is exactly as you say.

6 Q And if you as Vice-Minister of War were
7 occupying a military position what do you say as to
8 your violation of the rule which you say in your
9 affidavit existed that persons in the military ser-
10 vice would abstain from political activities?

11 MR. BROOKS: I object to that question as
12 being argumentative and being based on the false
13 premise that a member in the civil government of the
14 cabinet was actually in the active service and would
15 come under the same policies as testified to by the
16 witness.
17

18 COLONEL FIXEL: The affidavit of the witness
19 shows that he was in active service until he went in
20 the reserve in 1938, and this transaction took place
21 in 1932.
22

23 THE PRESIDENT: As Vice-Minister I suppose he
24 was in political office and also on active service.
25 What do you want to ascertain, Colonel? It is not
clear to me.

1 COLONEL FIXEL: I am trying to make a
2 record here on this point to the effect that while
3 he was in the active military service he was engaged
4 in political activities, not only in one way but in
5 several other ways. This is one of them.

6 THE PRESIDENT: There would hardly be a ban
7 against a vice-minister, but maybe so. Ask him.

8 Q Did the rule prohibiting officers from engaging
9
10 in political activities apply to the Vice-Minister of
11 War at the time you were Vice-Minister of War?

12 A I shall reply. The Vice-Minister of War and
13 the Navy Minister of War are considered as civil offi-
14 cials according to the government regulations -- Navy
15 Vice-Minister. This can be evidenced by the fact that
16 although an officer in the active list could not resign
17 or leave any post at his personal request, the Vice-
18 Minister of War and the Vice-Minister of the Navy may
19 at times of cabinet changes be relieved of his duties
20 at his own request. Both in the War and Navy depart-
21 ments when any appointments are made as officers, the
22 term "hosu" or "assignment" is used, whereas in the
23 case of the Vice-Minister, whether of the War Ministry
24 or the Navy Ministry, the word "ninzu" or "appointment"
25 or "nomination" is used.

Q You have explained that now very thoroughly.

Were you a member of the Sakurakai?

A No.

Q At no time?

A No, never.

Q In the early part of January, 1931, were you a party to any discussions as to the ways and means concerning measures for reforming Japan at which gatherings General UGAKI, General SUGIYAMA, General NINOMIYA, Colonel HASHIMOTO and others were present?

A The prosecutor is probably referring to an excerpt from the KIDO Diary which, in my recollection, is court exhibit 179-F, but that is completely without foundation.

Q I am asking you the question apart from any reference.

A I have never attended such a meeting.

Q Did you know that there was a movement to foster the political activities of General UGAKI in the War Ministry in the early part of 1931?

A There was no such movement within the Ministry of War.

Q You were acquainted with Colonel HASHIMOTO at that time, weren't you?

A No, not at that time.

Q Were you acquainted with General TATEKAWA in

January, 1931?

1 A I have known General TATEKAWA since August.

2 Q August of what year?

3 A 1931, but we were not intimate.

4 THE MONITOR: I became intimate with General
5 TATEKAWA from August 1931. I knew him before that,
6 but I was not on intimate terms.

7 Q Did you know that there was a group in the
8 War Department while you were Chief of the Military
9 Affairs Bureau in 1931 that favored the use of military
10 force in connection with the appearance of General UGAKI
11 on the political field?

12 A No, there was no such a thing.

13 Q You have mentioned in your affidavit something
14 concerning a plan OKAWA proposed you take up with UGAKI,
15 but you have not described the plan in any detail. Is
16 it not a fact that in a voluntary written statement
17 you gave to Major Hummel, you fully stated OKAWA's plan
18 to be as follows:

19 "The plan is to confuse the Imperial Diet by
20 hurling bombs at it; to attack the Metropolitan Police
21 Board and bring about such a situation as the public
22 peace in Tokyo cannot be maintained except by military
23 force; then to guide the situation to such a state that
24 the enforcement of martial law will be necessitated; to
25

1 make the cabinet responsible for it and resign en bloc;
2 to let Minister UGAKI offer to save the situation; and
3 to take some measures so as to make it possible that the
4 Imperial Order will be given to Minister UGAKI to organize
5 the next cabinet. As for measures to save the situation,
6 it is enough that they are to be planned after the
7 Imperial Order is given."

8 Did you get that statement from OKAWA at a time
9 in March 1931 when he visited you in the War Ministry?

10 A This took place probably around the end of
11 February, and the visit was made not to the War Ministry
12 but to my own house. At that time OKAWA expressed such
13 ideas in answer to questions put by me to him.

14 Q And when you drew your affidavit, you referred
15 to the missiles that were described by OKAWA as bombs,
16 as firecrackers, did you not?

17 A Because of the fact that it has already been
18 made clear to this Tribunal that the bomb used was a
19 sort of a paper bomb used in times of maneuvers, I used
20 the word "gihoka," which are not real bombs.

21 Q When you speak of firecrackers, as used in your
22 affidavit, you really mean bombs, do you not?

23 A When OKAWA came to see me in, I think it was,
24 February 1931, he used the word "bombs."

25 Q Well, as a matter of fact, the Japanese Army

1 in 1931 was not using firecrackers in artillery practice,
2 was it?

3 A Yes, in artillery maneuvers these firecrackers
4 were used.

5 THE PRESIDENT: I am looking into the paper
6 dealing with the calling of witnesses from Russia for
7 cross-examination. So far as I have read the papers --
8 but I have not completed the reading -- the Russian
9 view seems to be right; but I invite the defense to look
10 into it during the luncheon adjournment. I shall continue
11 to look into it.

12 We will adjourn until half-past one.

13 (Whereupon, at 1200, a recess was
14 taken.)

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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now in session.

THE PRESIDENT: Colonel Fixel.

- - -

K U N I A K I K O I S O, an accused, resumed the
stand and testified through Japanese interpreters
as follows:

BY COLONEL FIXEL (Continued):

Q Witness, will you please state who delivered
the bombs, which you now call "firecrackers," to
OKAWA or to his henchmen?

A I refer to this particular article as dummy
shells or blank shells or, in Japanese, gihoka, and
at that time I did not know through whose hands these
dummy shells were delivered to OKAWA and his group.

Q Did you later find out that Major-General
TATEKAWA of the General Staff office had released the
bombs and that the bombs were delivered by the accused
HASHIMOTO or under his direction?

A When I went to the Vice-Chief of the Army
General Staff to express warning that it was highly
improper to have General Staff officers approach such

1 a person as OKAWA, the Vice-Chief told me or reported
2 to me, rather, that the so-called bomb, that is, the
3 dummy shells, was delivered from TATEKAWA to OKAWA's
4 group. Since then I did not know by whose hand these
5 dummy bombs were delivered to OKAWA's group, and it
6 was for the first time -- and it was in this Tribunal
7 and for the first time that I learned that HASHIMOTO
8 was one of those responsible for the delivery of the
9 bombs.

10 Q After OKAWA outlined his plot to you, did
11 you take any action to have him arrested as a
12 dangerour person?

13 MR. BROOKS: I object to this, if your Honor
14 please. There is no showing that there is any duty
15 on the part of this accused in the office that he
16 held to carry out steps of that nature. Therefore --

17 THE PRESIDENT: It is a simple thing to ask
18 him whether he had any duty in that regard. We do
19 not pretend to know all about the administration of
20 Japan. We do not know who is responsible.

21 MR. BROOKS: If the Tribunal please --

22 THE PRESIDENT: Let him answer the question.
23 He can make an explanation if necessary.

24 MR. BROOKS: I will withdraw my objection
25 if the proper foundation questions are asked.

1 A I believed that if I could or if I succeeded
2 in having OKAWA and his group abandon such a reckless
3 plan, I did not think there was any need to arrest
4 them.

5 Q Did you also have the same opinion with
6 reference to the officers of the Army who participated
7 in the plot?

8 A Because I believed that such plottings or
9 plannings were highly improper, I went to the General
10 Staff office, as I have already told you in my
11 previous reply, to see the Vice-Chief of Staff and
12 to warn him that it was highly improper for officers
13 of the General Staff to participate in anything of
14 the kind.

15 Q Did you have authority to file charges
16 against any officer who took part in a scheme of that
17 kind?

18 A I had no authority to issue any indictment
19 or to make charges.
20

21 Q Did you recommend to anyone in the military
22 service, who had authority to file such charges, to
23 do so?

24 A If there was any necessity to file charges,
25 then there was no need to await my warning, and
inasmuch as I went to the General Staff and issued

1 the warning to stop any rash actions of the kind,
2 the General Staff office -- if an action was necessary,
3 the General Staff did, I believe, take the appropriate
4 steps.

5 Q At any rate, you did not initiate any action
6 to have charges filed against the military personnel
7 who were involved in the plot.

8 A With regard to filing charges, I did nothing.
9 I did not do anything.

10 Q You testified this morning that OKAWA brought
11 the plan, which was outlined and read to you, to your
12 dwelling place. Did you examine the plan at the time
13 he first brought it to you?

14 A When I heard this plan explained to me, and,
15 as I also stated in my writing read by the prosecution,
16 I told OKAWA immediately and point blank that such a
17 reckless plan must be immediately abandoned.

18 Q Did you have a Colonel NAGATA, Tetsuzan,
19 under you in the Military Affairs Bureau as Chief of
20 the Military Affairs Section at that time?

21 A Yes.

22 Q And, isn't it a fact that after you had
23 determined that the plan was reckless or was not
24 adoptable, that you ordered Colonel NAGATA to examine
25 the plan for its consistency?

1 A It seems that there are various parts of the
2 whole story omitted, and unless I explain some of the
3 circumstances at that time, you will not be able to
4 understand the whole situation.
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1 Q I think the question is very simple. It
2 was this: After you had determined that you didn't
3 want to have anything to do with the plan for various
4 reasons, did you order Colonel NAGATA, who was head
5 of the Military Affairs Section, to examine the plan
6 for its consistency?

7 A As I have said before, I warned OKAWA
8 to abandon the plan, but he did not accept my advice.
9 Thereupon, I reported to War Minister UGAKI that
10 OKAWA's -- what OKAWA wanted to submit to the War
11 Minister was a matter in which the War Ministry should
12 under no circumstances be involved. To this advice
13 on my part, War Minister UGAKI said -- ordered me
14 to ask OKAWA to submit his so-called plan in writing
15 and so I met OKAWA again.

16 The document which OKAWA submitted at my
17 direction was written on Japanese white "Hanshi" paper,
18 with the width of 40 to 50 centimeters and a length
19 of some 60 centimeters, and the document consisted of
20 2 sheets on which there was some brush writing, rather
21 rough -- some writing which was done in Japanese
22 brush in a rather rough manner. Although I tried
23 my best to decipher this writing, I could not
24 comprehend what the matter was all about and so I
25 asked OKAWA to read the contents to me. I took what

1 he explained on my memo with a pencil and after
2 putting the 2 documents together, that is, the
3 original document and my memo, I brought these
4 documents to the War Ministry.

5 Although I compared my notes with the
6 document, I could find no consistency or completeness
7 in the plan. And whilst speaking about the fact
8 that OKAWA entertained some such plan as contained
9 in the writings, I ordered NAGATA to examine the
10 matter and find out whether the plan had any con-
11 sistency or not.

12 Q Now, right at that point, may I continue
13 asking questions?

14 At the time you had already made up your
15 mind that the plan was not workable, isn't that true?

16 A Of course, yes.

17 Q And nevertheless you ordered Colonel NAGATA
18 to examine the plan for its consistency after you
19 had decided that the plan was an improper plan?

20 A No, that was not so. The matter had to be
21 reported to the War Minister and no matter -- no
22 explanation could be offered to the War Minister on
23 any plan or any matter in which there was any -- in
24 which there could not be found any consistency, and
25 that is why I ordered NAGATA to find out whether

1 there was any consistency in the plan so that some
2 report, some logical report, could be made.

3 Q Well, now, did you think that a plan to
4 blow up the Diet and to cause a coup d'etat in the
5 Government could be made consistent?

6 A Because the plan itself was highly incon-
7 sistent, I warned OKAWA to abandon the whole idea.

8 Q So you disapproved of the plan yourself, you
9 say, and after you had disapproved the plan, you
10 turned it over to your subordinate in the War Ministry
11 to try to improve the plan, to make it consistent; is
12 that correct?

13 A I did not issue any such order to NAGATA.

14 Q Well, after your visit with General UGAKI,
15 did he pass an opinion on the plan? Did he favor it
16 or was he against it?

17 A I submitted the document to General UGAKI,
18 and one or two days later I went to see him and asked
19 for his reaction.

20 Q What did he say?

21 A UGAKI condemned the plan in the following
22 manner -- the expression he used was "Can such a
23 foolish thing be adopted?" or "Could such an absurd
24 thing be adopted?"
25

Q Did you come away from him with the impression

1 there was any consistency in the plan so that some
2 report, some logical report, could be made.

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4 blow up the Diet and to cause a coup d'etat in the
5 Government could be made consistent?

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16 or was he against it?

17 A I submitted the document to General UGAKI,
18 and one or two days later I went to see him and asked
19 for his reaction.

20 Q What did he say?

21 A UGAKI condemned the plan in the following
22 manner -- the expression he used was "Can such a
23 foolish thing be adopted?" or "Could such an absurd
24 thing be adopted?"

25 Q Did you come away from him with the impression

that he was opposed to the plan?

1 A Yes, very apparently so.

2 Q After you had been given this information
3 by the War Minister, is it not a fact that you
4 continued to have Colonel NAGATA still work on the
5 plan to try to make it consistent?

6 A Such facts are -- that is without foundation.

7 Q You state in your affidavit that the prestige
8 of the Army would have been injured if the bombs had
9 remained outstanding. So you desired to secure the
10 return of the bombs; isn't that correct?

11 A Yes.

12 Q And did OKAWA or one of his henchmen have
13 the bombs at that time?

14 A I did not know who had the bombs, but from
15 what I heard later, it was one of OKAWA's followers
16 who had the bombs.

17 Q Was this follower a civilian?

18 A It is said that that person was SHIMIZU,
19 Konosuke who appeared as a witness before this Tribunal.

20 Q And you also said in your affidavit that
21 you intervened with Marquis TOKUGAWA to secure the
22 return of the bombs. When did you first ask the
23 help of TOKUGAWA to secure the return of the bombs?
24

25 A I think it was around March 17 or 18 that I

first asked Marquis TOKUGAWA for his assistance.

1 Q How many times did you request the return
2 of these bombs either from TOKUGAWA or other
3 civilians who had possession or control of them?

4 A As I have already said, it was somewhere
5 around March 17 or 18 that I asked the return of the
6 bombs through a certain -- through other persons.
7 At that time, not only was the return of the bombs
8 demanded, but also at the same time it was requested
9 that OKAWA be made to abandon the plan entirely. As
10 a result of Marquis TOKUGAWA's efforts, we succeeded
11 in having OKAWA abandon the plan. However, I did
12 not know whether the bombs, that is, the dummy bombs,
13 themselves were actually returned by OKAWA or was
14 transferred from OKAWA to TOKUGAWA and the matter
15 was left unsettled to later dates. Furthermore, I
16 do not know whether or not Marquis TOKUGAWA talked
17 to OKAWA about these bombs.
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1 Q I asked you this question, which you did not
2 answer. The question was, how many times did you
3 request OKAWA or any of the other civilians who had the
4 bombs to return the bombs before they were actually re-
5 turned?

6 A I do not quite comprehend the question, but I
7 shall reply on my understanding of the question.

8 It was only once that I met TOKUGAWA personally
9 and asked for his good offices to bring about a return
10 of the dummy bombs.

11 Q Well, I am not addressing my question to how
12 many times you spoke to TOKUGAWA, but any civilian
13 in addition to TOKUGAWA. And I asked how many times
14 you requested OKAWA, SHIMIZU, TOKUGAWA, or anyone else
15 who had control of these bombs, to return them before
16 they were returned?

17 A I asked OKAWA once; that was all.

18 Q And is it not a fact that you did not get the
19 bombs back into the War Department until March of 1932?
20

21 A No.

22 Q When were the bombs returned?

23 A I think it was around December, 1931.

24 Q And is it not a fact that the bombs were kept
25 during that length of time having in view the incident
which broke out in October of 1931?

A No, that is entirely different.

Q If you were so afraid of the prestige of the army -- that the prestige of the army was to suffer if the bombs were not recaptured, what prevented you from sending an army truck out to the place where the bombs were and seizing the bombs?

A As I have stated in my affidavit, the dummy shells were delivered to OKAWA by General Staff officers and any attempt to have these bombs returned was the business of the General Staff and not of the Chief of the Military Affairs Bureau of the War Ministry.

Q Just a minute, please. What were you intermeddling into the matter for if that was a matter for the General Staff, to secure the bombs back?

A This was actually a duty of the General Staff Office, inasmuch as it involved General Staff officers, but inasmuch as the efforts made by the General Staff in this regard was far from sufficient, and inasmuch as such bombs should not under any circumstances be in the possession of civilians, and because this whole matter reflected upon the prestige and honor of the entire army, I, in my capacity as Chief of the Military Affairs Bureau of the War Ministry, undertook the job of trying to get these bombs back, because it affected the entire army.

1 Q Do you mean to tell this Tribunal that you had
2 to virtually beg a civilian to intervene in behalf of
3 the War Ministry to secure the return of these artillery
4 shells which were War Department property?

5 MR. BROOKS: If your Honor please, I wish to
6 object to that question as being argumentative and
7 being immaterial and irrelevant.

8 I believe that the prosecution has failed to
9 examine their own witness' testimony. The man who had
10 these dummy bombs said that they were in a very small
11 package. In his talk about army trucks, he seems to be
12 unfamiliar with what has taken place in that relation,
13 and therefore this seems to be repetitive and covers a
14 lot of stuff that has taken place previously.

15 THE PRESIDENT: The prosecution could reserve
16 a lot of this for comment later, but it is really fair
17 to the witness to ask for his explanation. I do not
18 regard it as immaterial nor as repetitive.

19 The objection is overruled.

20
21 A I shall reply. The prosecutor has just said
22 that these so-called dummy shells were a property of the
23 War Ministry. That was not so.

24 Q Who did they belong to?

25 A The artillery school.

Q And under whose --

1 THE INTERPRETER: Correction: The infantry
2 school.

3 Q Under whose direction, as far as military af-
4 fairs were concerned, was the artillery school?

5 THE INTERPRETER: Mr. Prosecutor, "artillery
6 school" has been corrected to "infantry school."

7 COLONEL FIXEL: That is right. Please make the
8 correction in my question.

9 A Under the jurisdiction of the Inspector General
10 of Education -- of Military Education.

11 Q Was not the infantry school and its activities
12 also connected with the Military Affairs Bureau of the
13 War Department?

14 A There was no such thing as a Military Affairs
15 Section in the War Ministry at that time, and it had no
16 connection with the War Ministry at that time.

17 Q You mean the infantry school was separate
18 from the War Ministry?

19 A It was a training institute under the direct
20 command and under the jurisdiction of the Inspector
21 General of Military Education.

22 Q Was he running a private school, or was it
23 under the jurisdiction of the War Ministry?

24 A The army was divided into three distinct
25 and separate branches -- the War Ministry, the Inspector

1 General of Military Education, and the General Staff
2 Headquarters.

3 Q Well, then, in what way did you become involved
4 in seeking the return of these bombs? You told us that
5 the bombs were in the possession of the General Staff,
6 that you had nothing to do with them, but you seem to
7 have interfered or intervened in someone's behalf or at
8 your own suggestion to secure the return of the bombs.

9 Now, why did you do it?

10 A I did not say that these shells were the proper-
11 ty of the General Staff. The General Staff officers
12 made arrangements to have the shells delivered to
13 OKAWA's group. The shells themselves were the property
14 of an organization which was under the direct command
15 of the Inspector General of Military Education.

16 As I have stated in my affidavit, I par-
17 ticipated in this matter in connection with the return
18 of these bombs because they reflected upon the honor of
19 the entire army.

20 Q Did the Inspector of Military Education know
21 that some of his bombs were in the possession of a
22 civilian?
23

24 A That I do not know.

25 THE PRESIDENT: Perhaps we have heard enough
about that.

1 Q You knew, did you not, that the matter of
2 disposing of Manchuria and Mongolia, and the question
3 of how to rule them, was undergoing studies prior to
4 July, 1931, in the War Ministry?

5 A I did not know, and such a thing was highly
6 impossible.

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Q Did you know an officer by the name of
1 SHIMANUKI? Was he one of your subordinates in July,
2 1931?

3 THE MONITOR: Will you kindly spell that
4 name out?

5 COLONEL FIXEL: S-H-I-M-A-N-U-K-I.

6 A I don't know whether it was in 1931 or 1932,
7 but I think there was a captain by the name of -- by
8 that name was in the Military Administration Section.
9 He was an air officer.

10 Q Did you have a section within your bureau
11 called the Military Service Section, in 1931?

12 A Yes.

13 Q And do you recall a communication that came to
14 the Military Affairs Bureau and was acted upon in the
15 Military Service Section, received from MINE, Yukimatsu,
16 commander of the military police, in which he submitted
17 an estimate to the War Ministry of his requirements in
18 connection with the occupation of Manchuria and Mongolia?

19 A There ~~may~~ have been, but I have no recollection.

20 COLONEL FIXEL: May the witness be shown
21 exhibit 3038-B, which has been previously marked for
22 identification?

23 Will the witness refer to the marked portion
24 thereof, being a letter dated 25 July 1931 from the
25

Q Did you know an officer by the name of
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22 identification?

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24 thereof, being a letter dated 25 July 1931 from the
25

1 commander of the Military Police to the War Minister
2 in reference to a study on the reorganization of the
3 Military Police forces in Manchuria?

4 Q Does the document you are examining bear
5 the seal of SHIMANUKI?

6 A Yes.

7 Q Will you admit the truth of the contents of
8 this document?

9 A Yes.

10 COLONEL FIXEL: I.P.S. document 3203, be-
11 ing an excerpt from exhibit 3038-B, is offered in
12 evidence.

13 THE PRESIDENT: Is that the document he just
14 read?

15 COLONEL FIXEL: The document as to which he
16 admits the truth of the contents.

17 MR. BROOKS: I haven't been served any copies
18 of this, your Honor, and I would like to reserve any
19 objections I may have.

20 THE PRESIDENT: We direct service on you.

21 Meanwhile, it is admitted on the usual terms.

22 CLERK OF THE COURT: Prosecution document 3203
23 will receive exhibit No. 3376.

24 (Whereupon, the document above
25 referred to was marked prosecution exhibit

3376 and received in evidence.)

1 THE PRESIDENT: Do you propose to read it,
2 Colonel?

3 COLONEL FIXEL: Yes, with the permission of
4 the Court I would like to.

5 This report is dated July 25, 1941, and is
6 to MINAMI Jiro, War Minister, from MINE Yukimatsu,
7 Commander of the MP. It has the seal of the Provost
8 Marshal and is marked "Secret."

9 "July 1931

10 "STUDY ON THE ORGANIZATION OF MP FORCE
11 IN MANCHURIA.

12 "MP Headquarters.

13 "We have no need to enlarge upon the fact
14 that in the future war our Empire should secure com-
15 plete possession of Manchuria and Mongolia from the
16 standpoints of maintenance of fighting ability and of
17 self-sufficiency.

18 "And how our Empire should manage and adminis-
19 trate Manchuria and Mongolia in the above case is al-
20 ready being studied by the respective responsible or-
21 gans. Along with this, the necessity of inquiry on the
22 MP in the occupied area is also evident.

23 "The necessity of the MP activities when en-
24 forcing military administration has been proved by a
25

1 number of wars, and especially, as the recent war-
2 fares are tending to be more of a psychological nature,
3 its necessity is greatly increasing. Furthermore, as to
4 the present situation in Manchuria and Mongolia, the
5 pending problems between Japan and China are being
6 aggravated day by day, and our military police in
7 Manchuria are now being greatly pressed with activity
8 as the necessity for the Army to use police authority
9 and to secretly detect and investigate the foreign
10 agencies has suddenly increased recently. I believe
11 it most necessary and timely to quietly consider the
12 changing phases of our future military operations on
13 this occasion, and based on the above, to study the
14 application, organization, strength, etc., of the mili-
15 tary police. Therefore, I will state my following
16 opinions and beg your clear judgment.

17 "GIST OF OPINION
18

19 "If a complete military occupation of a cer-
20 tain area in Manchuria and Mongolia is planned in our
21 future military operations, a minimum force of about
22 5,000 military police (with the addition of some Chinese
23 and Korean military police assistants) besides a part
24 of the occupation area garrison is required in order
25 to maintain peace and order in the said area. However,
the whole number of our military police (including ex-

1 service men) is far from sufficient to meet this re-
2 quirement. Therefore, in order to increase this foot-
3 ing in the future, the present organization and the
4 full number of the Kwantung MP should be revised and
5 increased, and furthermore, exceptions for extraordinary
6 drafting should be provided for, for the purpose of
7 filling up the deficiency.

8 "The total number of military police require-
9 ments in Manchuria will be about 5,000 military police
10 and approximately 20,000 Chinese (Korean) auxiliary
11 MP's.

12 "The basis of this estimation approves, on
13 the whole, the 'Study on the Administration of the
14 Occupied Territories in Manchuria and Mongolia,' com-
15 piled by the KWANTUNG Army Headquarters. Namely, about
16 25,000 military policemen (including assistants) will
17 be placed in the hypothetic administrative area of about
18 45,000 square 'ri' having a population of approximate-
19 ly 27,000,000, the rate being one military policeman
20 for a population of about 1,100 in an area of 1.8 square
21 'ri.'"

22 THE PRESIDENT: Captain Brooks.

23 MR. BROOKS: If your Honor please, on the
24 Japanese copy it shows that this is an excerpt and
25 also on the top of this it shows this is an excerpt,

1 and I am informed that the portions that have been
2 left out may change the meaning considerably, so I
3 ask to be heard on this at a later time, when I have
4 had a chance to thoroughly check both.

5 THE PRESIDENT: You can get it in the re-
6 examination, if that is the proper course.

7 THE WITNESS: May I say a word to you, Mr.
8 Prosecutor?

9 COLONEL FIXEL: I don't know why I should
10 be questioned, if the Tribunal please. I have no
11 further questions on that.
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1 Q In September, 1931, did you feel that there
2 was a very critical situation in Manchuria?

3 A As I have stated in my affidavit, the period
4 cannot be confined to this single month of September
5 but for a period of one or two years previously. Due
6 to various pending issues in China and Manchuria, the
7 feelings between Japan and China were daily becoming
8 aggravated.

9 Q And did you ask MINAMI's consent to take the
10 matter up with the General Staff to seek a decision
11 as to what should be done?

12 A By this question, are you referring to the
13 opinion advanced by the commander of the M.P. just
14 referred to?

15 Q No, I am referring to the conversation, if
16 you had such a conversation, with General MINAMI which
17 ultimately led to the dispatch of General TATEKAWA to
18 Mukden.

19 A I have had no conversation with War Minister
20 MINAMI in connection with the dispatch of General
21 TATEKAWA to Manchuria.

22 Q Did you have a conversation with General
23 MINAMI with reference to the critical situation that
24 existed in Manchuria at that time, early September?
25

A As I have clearly stated in my affidavit, the

1 situation between Japan and China and between Japan
2 and Manchuria was becoming daily more and more critical
3 and in the light of the strength within the Japanese
4 Army itself, I expressed my opinion to the Minister
5 and the Vice-Minister of War -- I do not remember the
6 date -- to the effect that no matter what happened,
7 if some trouble should break open, that trouble should
8 be settled peacefully and war must be avoided at any
9 cost.

10 Q Did you get the permission of MINAMI to go to
11 the General Staff and talk the matter over at the
12 General Staff?

13 A I have never received any such permission
14 nor any order.

15 Q Did you go to the General Staff to discuss this
16 question that you had taken up with General MINAMI,
17 about which you were so fearful?

18 A As I have stated in my affidavit, I expressed
19 the same opinion to the Vice Chief of the Army General
20 Staff.

21 Q Did you express that opinion to him in a
22 personal or an official capacity?

23 A Well, I received no directions of any kind
24 from General MINAMI, but before becoming Chief of the
25 Military Affairs Bureau of the War Office I was Chief

1 of the Materiel Mobilization and Procurement Bureau
2 of the War Ministry and was very familiar with the
3 situation of our armed forces as well as the condition
4 of our war production industries, and after becoming
5 Chief of the Military Affairs Bureau I obtained a far
6 better and more thorough understanding of the situation
7 which actually existed between China and Japan. With
8 this background I expressed the opinion, to which I
9 have just referred, in my position as Chief of the
10 Military Affairs Bureau.
11

12 Q Whom did you express the opinion to? Who
13 was present when this opinion was expressed?

14 A Only the Vice Chief of Staff.

15 Q That was General NINOMIYA?

16 A Yes.

17 Q Did you mention TATEKAWA's name to NINOMIYA
18 at that time as a suitable person to be entrusted with
19 the mission to stop an outbreak in Manchuria?

20 A No.

21 Q Did you ever mention it at another time to
22 any person connected with the General Staff?

23 A No.
24
25

1 Q When did you find out that TATEKAWA was the
2 party selected to go to Manchuria on a mission in
3 connection with the orders of the General Staff?

4 A I do not recollect the date, but I do recall
5 that a telephone message was sent from the Vice-Chief
6 of Staff to the office of the Chief of the Military
7 Affairs Bureau to that effect.

8 Q Was it before the outbreak of the Mukden
9 Incident?

10 A Before.

11 Q And you then received information that
12 TATEKAWA was the party selected to go to Mukden, isn't
13 that right?

14 A Yes, I heard that for the first time then.

15 Q And isn't it a fact that you received that
16 information several days before the Mukden Incident
17 occurred?

18 A I have no clear recollection as to dates.

19 Q Did you have a clear recollection as to
20 dates two years ago when you gave a written statement
21 to Major Hummel of the International Prosecution Sec-
22 tion in connection with this particular point?

23 A No.

24 Q And if it was stated in such statement that
25 it was expected that TATEKAWA would arrive at the

1 headquarters of the Kwantung Army by September 15 at
2 the latest, would you say that your memory at the
3 time you wrote that statement was better than it is
4 today on that point?

5 THE PRESIDENT: I suggest you come more
6 directly to what he said two years ago, Colonel.
7 Cut out this test of his memory.

8 A What the prosecutor has just said seems to
9 be a mistake in recollection on his part. I have
10 not said anything of the kind to Major Hummel. The
11 date "15th" was written on my memo. But you will
12 understand, if you will re-read my affidavit, and
13 that is that after entering Sugamo Prison I have
14 tried to trace my very faint recollections in trying
15 to approach as accurate a date as possible, but I
16 have stated that it is impossible or that it is in-
17 escapable that I might be mistaken as to dates as
18 well as facts.

19
20 Q Well, now --

21 THE PRESIDENT: Before we recess, I wish to
22 refer to that question of the Russian witness brought
23 here for cross-examination. General Zaryanov and I
24 have gone through the papers together. It appears
25 that on the 9th of June Major Blakeney signified his
desire to get three Russian nationals brought across

1 from the USSR as well as certain other witnesses.
2 General Zaryanov contends that the three Russian
3 nationals must necessarily have included Budarin be-
4 cause there was no way of making up three without
5 him.

6 On the 17th of June an order was made in
7 open court for the production of all witnesses who
8 had not then been produced. That order was wide
9 enough to include Budarin if he were one of the
10 three Russian nationals. Later, the Chief Prosecu-
11 tor filed an application asking that the time for the
12 production of the witnesses been extended. In the
13 application he named Budarin among others. The ap-
14 plication came before me in Chambers on the 20th of
15 August. Major Furness and Major Blakeney were pre-
16 sent according to the record. I read the names of
17 the witnesses, including Budarin. General Vasiliev
18 also mentioned Budarin in his remarks. Major Blake-
19 ney spoke at considerable length, but nobody pointed
20 out that Budarin was not required, and the Chief
21 Prosecutor's application was granted in toto.
22

23 We will hear your reply after the recess.
24 We will recess for fifteen minutes.

25 MR. FURNESS: May I say that Major Blakeney
is not here; and, if his name was mentioned, it should

1 have been stated when he was here.

2 THE PRESIDENT: How do I know who is in
3 court? I cannot keep the whole of the counsel in
4 court in my mind. This court happens to be crowded
5 with counsel. I know you are here. He can reply
6 to me. Why be so disagreeable about it anyhow?

7 We will recess for fifteen minutes.

8 (Whereupon, at 1445, a recess
9 was taken until 1500, after which the pro-
10 ceedings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Major Blakeney.

4 MR. BLAKENEY: May I say a few words?

5 THE PRESIDENT: Certainly.

6 MR. BLAKENEY: In connection with the matter
7 of defense request for witnesses to be produced for
8 cross-examination, I should like to point out that the
9 first formal mention of this matter in the Tribunal
10 occurred on the 28th of May, pages 23,153 et sequentia
11 of the record, at which time it was requested that cer-
12 tain named witnesses, twelve in number, be brought for
13 cross-examination. The Tribunal at that time directed
14 that the matter be fully argued at a future date. That
15 argument was presented to the Tribunal on the 9th of
16 June at pages 23,788 et sequentia of the record.

17 On that occasion, in presenting the request
18 for the defense, I named the specific witnesses whom
19 we desired and stated, in brief terms, the reasons for
20 which we desired the production of each. As the
21 President has stated, I did say in the course of that
22 argument that the defense had requested the production
23 for cross-examination of three Soviet nationals among
24 other people. The three Soviet nationals whom I had
25 in mind and whom the defense had requested at the time

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18 for the defense, I named the specific witnesses whom
19 we desired and stated, in brief terms, the reasons for
20 which we desired the production of each. As the
21 President has stated, I did say in the course of that
22 argument that the defense had requested the production
23 for cross-examination of three Soviet nationals among
24 other people. The three Soviet nationals whom I had
25 in mind and whom the defense had requested at the time

1 of the introduction into evidence of the documents,
2 respectively were the witnesses Batarshin and
3 Chernopyatko and the former Foreign Commissar Litvinov,
4 excerpts from whose diary were introduced in evidence
5 and whose production for cross-examination was requested
6 on page 7,718 of the record, that having been on the
7 14th of October, 1946. As I have said, however, in
8 presenting argument on the motion for production of
9 witnesses, I did specify by name those who were then
10 desired and I confined the argument to those who had
11 given affidavits and whom we desired. And in naming the
12 witnesses desired I named the two Soviet witnesses who
13 have already appeared within the past week, Batarshin
14 and Chernopyatko.

15 The order of the Tribunal was entered on the
16 17th of June at page 24,517 of the record. In that
17 order, after naming specifically five witnesses and
18 disposing of their peculiar cases on other grounds,
19 the Tribunal continued as follows: "That it orders" --
20 I am quoting -- "That it orders the prosecution to
21 produce for cross-examination the other witnesses
22 mentioned in the said defense motion."
23

24 /s I have said, the witness Budarin was not
25 mentioned in the said defense motion. I, therefore,
have assumed then, as I assumed at all later times, that

1 the witness Budarin was not included within the tenor
2 of the order of the Tribunal. And, parenthetically,
3 the production of the witness Budarin was not requested
4 when his affidavit was produced, was tendered, which
5 I assume would be the only appropriate time for enter-
6 ing such a request.

7 Notwithstanding that the defense had and has
8 never requested the production of this witness, it now
9 appears that when the prosecution moved on the 19th of
10 August, or two days after the order of the Tribunal
11 of the 17th of June had by its terms become effective,
12 for an extension of time, it appears, I say, that the
13 name of the witness Budarin was included among those
14 for whom it was desired that an extension of time be
15 granted before their production. In Chambers it was
16 I who responded to the application and I can say only
17 that I gave no thought to the question of the addition
18 by the prosecution of the name of another witness than
19 those already requested by the defense. I thought then
20 and I think now that if the matter then being agitated
21 was of an extension of time within which to produce
22 witnesses requested by the defense, that the request of
23 the defense should govern in the matter of what witnesses
24 were under discussion.
25

I, therefore, submit to the Tribunal that not only

1 is it quite clear that the witness Budarin was never
2 comprehended within the terms of the order now in
3 question, but if he had been he is now tendered for
4 cross-examination too late because the order of the
5 Tribunal as extended allowed the prosecution until
6 the 17th day of October to produce the witnesses, fail-
7 ing which, in accordance with the original order, their
8 testimony was to stand stricken or disregarded. There-
9 fore, after the expiration of the time so limited and
10 after the passage of the 17th day of October the order
11 was executed, not executory. The testimony of the
12 witness would have been disregarded and his production
13 on the third of November for cross-examination would
14 in no way affect the position.

15 As has been stated to the Tribunal today, the
16 defense do not desire to cross-examine the witness
17 and what I have said is only in the endeavor that
18 the record of the Tribunal may be kept straight.
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1 THE PRESIDENT: General Vasiliev.

2 GENERAL VASILIEV: Your Honor, I confirm our
3 request for the permission of the Tribunal to produce
4 the witness Budarin who has specially arrived in Tokyo.
5 I have already informed the Tribunal as to the cir-
6 cumstances of the production of this witness before
7 the Tribunal.

8 When the question of the production of our
9 witnesses was being discussed on June the 9th the
10 defense presented no specific list, and I even had
11 the impression that the defense did not request the
12 production of witnesses, Soviet nationals. This
13 may be found on page 23,822 of the record. However,
14 Mr. Blakeney said that I misunderstood him and that
15 he also raised the question as to the Soviet nationals
16 as well. This may be found at page 23,826 of the
17 record. As Mr. Blakeney admits himself, he wanted
18 that three Russian witnesses should be produced, and
19 the third one being Mr. Litvinov. This is quite
20 unexpected for us and we hear about it for the
21 first time.
22

23 The decision of the Tribunal which was
24 announced on June the 17th was of a general character,
25 to the effect that the witnesses should be produced
for cross-examination, otherwise the affidavits --

1 their affidavits would be disregarded. The names of
2 the witnesses were not mentioned. Our understanding
3 was that Mr. Budarin was included as well.

4 When it was necessary to extend the time
5 for the production of witnesses, in our motion ad-
6 dressed to the Tribunal we gave the names of the
7 witnesses, including the name of Mr. Budarin. When
8 the matter was being discussed in Chambers the name
9 of Budarin was mentioned as well. This was on August
10 the 20th.

11 On October the 16th, that is to say before
12 the expiration of the time for the production of
13 witnesses, Mr. Chief of Counsel made a statement
14 in which he said that the third witness was delayed
15 in Vladivostok due to illness, and that the other
16 five witnesses have arrived. The defense had no ob-
17 jections and I received no direction from the Tribunal.
18 Consequently I was under the impression that we have
19 to produce the fifth witness as soon as he recovered --
20 the witness Budarin as soon as he recovered. When our
21 five witnesses arrived I made a statement to the Tri-
22 bunal in which I mentioned that the sixth witness,
23 Mr. Budarin, was delayed in Vladivostok due to his
24 illness.
25

RUSSIAN MONITOR: That was on October 24 and

could be found at page 31,705 of the record.

1 GENERAL VASILIEV: The defense again made no
2 reply to that. Finally last week I heard that the
3 defense allegedly did not desire to cross-examine
4 the witness Budarin. I requested that the defense
5 should specify their reply, but when I received it,
6 on the same day I was informed that the witness Budarin
7 was on board ship on the way to Tokyo.
8

9 We have only one desire, to fully comply with
10 the decision of the Tribunal with regard to the pro-
11 duction of witnesses. As soon as the witness Budarin --
12 as far as the witness Budarin is in Tokyo, we insist
13 that this witness be produced before the Tribunal for
14 the purposes of which I have already informed the
15 Tribunal, namely, that the witness confirm his affi-
16 davit under oath; secondly, to read those parts of
17 the affidavit which haven't been previously read into
18 the record; and, thirdly, to entitle the witness to
19 answer the questions of the members of the Tribunal,
20 and as I understand some members of the Tribunal have
21 such questions.
22

23 I would like to mention it once more that the
24 defense have no grounds for asking the Tribunal, under
25 the existing circumstances to disregard Budarin's
 affidavit.

1 THE PRESIDENT: Well, the decision given
2 this morning stands until my colleagues notify me of
3 their desire to change it. I have heard nothing from
4 them so far. We will consider what you have both
5 said.

6 MR. BLAKENEY: I should like, if I may, to
7 ask that the prosecution be instructed to state the
8 page of the record at which can be found any state-
9 ment that Members of the Tribunal desire to interro-
10 gate this witness.

11 THE PRESIDENT: Well, I understand one Member
12 does, but I do not know of any others, and I do not
13 know of any page of the record where it appears.

14 MR. BLAKENEY: I didn't know how the prosecu-
15 tor would know.

16 THE PRESIDENT: Well, I did not inform him.

17 GENERAL VASILIEV: Maybe I misunderstood your
18 words, Mr. President, but I understood that you men-
19 tioned that two Members of the Tribunal had some ques-
20 tions to the witness. Maybe I misunderstood the trans-
21 lation.
22

23 THE PRESIDENT: You may be right. One at
24 least did suggest that he would like to ask a question,
25 and I may have mentioned it in court. I do not know.
I do not recollect everything I say.

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2 this morning stands until my colleagues notify me of
3 their desire to change it. I have heard nothing from
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20 tions to the witness. Maybe I misunderstood the trans-
21 lation.
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23 THE PRESIDENT: You may be right. One at
24 least did suggest that he would like to ask a question,
25 and I may have mentioned it in court. I do not know.
I do not recollect everything I say.

1 I am told I did mention that in court this
2 morning, but I do not recall doing so. It was quite
3 proper that I should do it, of course.

4 GENERAL VASILIEV: I can say definitely,
5 your Honor, when I check the record. I am saying
6 this just now only on the basis of the oral inter-
7 pretation.

8 THE PRESIDENT: Well, two, at least, of my
9 colleagues assure me that I did say that this morn-
10 ing.

11 GENERAL VASILIEV: I am quite satisfied,
12 your Honor. So I expect that the Tribunal will give
13 its decision on the matter.

14 THE PRESIDENT: As I said, the Tribunal
15 has already given its decision, General, but after
16 hearing you they may or may not decide to make an
17 alteration. That is for the other Members of the
18 Court.

19 GENERAL VASILIEV: Thank you, your Honor.

20 THE PRESIDENT: Well, are we finished with
21 the witness yet?

22 BY COLONEL FIXEL (Continued):

23 Q I was asking you, Mr. Witness, was it not
24 expected that TATEKAWA would arrive at the Kwantung
25 Army Headquarters by at least the 15th of September,

1931?

1 A As I have already replied to that question
2 prior to the recess, there was some error in notes
3 that I made on my memo sheet. The notation should
4 have been as follows. To my inquiry of the Vice-
5 Chief of Staff whether there was any report from
6 TATEKAWA, the Vice-Chief replied to me as follows.
7 The Vice-Chief said, in reply to my inquiry, that
8 "It is about time that TATEKAWA has arrived on the
9 spot," that is, in Manchuria; and continuing he said:
10 "Probably he is holding discussions with the Command-
11 ing General of the Kwantung Army, for there is as yet
12 no reply from him." And it was a mistake on my part
13 to have written the 15th on my memo. That is how I
14 feel. It was a mistake.

16 Q And was it also a mistake that you stated
17 in your memorandum that you gave to Major Hummel,
18 that General TATEKAWA spent many days in discussing
19 the situation in Manchuria with the Staff of the
20 Headquarters of the Kwantung Army, and that is why
21 he was delayed in getting to Mukden? Was that also
22 a mistake?

24 A I have absolutely not written such a thing
25 in my memorandum.

Q Did you know what instructions TATEKAWA

1931?

1 A As I have already replied to that question
2 prior to the recess, there was some error in notes
3 that I made on my memo sheet. The notation should
4 have been as follows. To my inquiry of the Vice-
5 Chief of Staff whether there was any report from
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9 spot," that is, in Manchuria; and continuing he said:
10 "Probably he is holding discussions with the Command-
11 ing General of the Kwantung Army, for there is as yet
12 no reply from him." And it was a mistake on my part
13 to have written the 15th on my memo. That is how I
14 feel. It was a mistake.

16 Q And was it also a mistake that you stated
17 in your memorandum that you gave to Major Hummel,
18 that General TATEKAWA spent many days in discussing
19 the situation in Manchuria with the Staff of the
20 Headquarters of the Kwantung Army, and that is why
21 he was delayed in getting to Mukden? Was that also
22 a mistake?

24 A I have absolutely not written such a thing
25 in my memorandum.

Q Did you know what instructions TATEKAWA

1 received from the General Staff before he left for
2 Mukden?

3 A I do not know what kind of instructions he
4 received nor on what date he departed.

5 Q Now, after he had departed and you received
6 a telephone message or a message from the General
7 Staff that TATEKAWA was on his way and should arrive
8 shortly, do you still say at that time you didn't
9 know what he was going up there for?

10 A No, that is not so. What I said, I knew
11 his purpose in going to Manchuria, and what I told
12 you was that I did not and do not know what the
13 instruction was, what its contents were, how it was
14 written, what the nature of it was.

15 Q Apart from that what was the purpose of his
16 going there?

17 A That is as I have clearly set forth in my
18 affidavit.

19 Q Wasn't it to prevent the outbreak of an
20 incident between the Chinese and the Japanese?

21 A The purpose of his mission was that whatever
22 may be the situation or whatever may be the develop-
23 ments every patience and forbearance must be exer-
24 cised.

25 Q Was there telegraph communication at that

1 time between Tokyo, Port Arthur, and Mukden?

2 A Yes, of course.

3 Q Why was such a slow and uncertain method of
4 communicating a simple request or decision of the
5 General Staff adopted if telegraph communication was
6 available?

7 A It is my interpretation that in the light
8 of the situation within the army, and in order to tho-
9 roughly have the ideas of the Chief of the General
10 Staff and the War Minister understood by the people
11 on the spot, a person carrying such detailed infor-
12 mation should be dispatched.

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1 Q Did you discuss the purpose of TATEKAWA's trip
2 with him before he left on his mission for Mukden?

3 A No.

4 Q Was TATEKAWA, the man who went to Mukden, the
5 same person of the General Staff who was instrumental
6 in releasing the bombs to OKAWA in the previous March?

7 A Yes, the same person.

8 Q Now, was TATEKAWA's failure to proceed expe-
9 ditiously to Mukden and his failure to deliver the
10 orders received by him upon his arrival in Mukden be-
11 cause you and he had a pre-arranged plan to permit an
12 incident to occur?

13 A Absolutely not. I have heard that that has
14 been entered in HARADA's Diary, but that is completely
15 without foundation. It is a complete falsehood and
16 a fabrication on his part.

17 Q While you were Chief of the Military Affairs
18 Bureau, did you know what action the Kwantung Army
19 was taking in connection with the matter of Manchukuoan
20 independence? In other words, was the Kwantung Army
21 guiding the independence movement in any way in Man-
22 chukuo for the establishment of the regency?

23 A May I inquire whether you are referring to
24 matters after the outbreak of the Manchurian Incident?
25

A Yes, that is right.

1 A I think, if my memory serves me right, that
2 on the 15th of November, the War Minister sent
3 instructions to the commanding general of the Kwantung
4 Army to the effect that the Kwantung Army should not
5 under any circumstances participate in political ques-
6 tions which center around Mr. Pu-Yi. And I think the
7 Kwantung Army was not doing anything of the kind in
8 pursuance of this instruction.

9 Q Did the document come to your attention that
10 was forwarded by MIYAKI, the Chief of Staff of the
11 Kwantung Army, to the Vice-Minister of War on or about
12 5 December 1931, dealing with this very matter; that
13 is, the policy of guiding the independence movement
14 in Manchuria at that time?

15 A I have no recollection.

16 COLONEL FIXEL: May the witness be shown an
17 excerpt, being serial No. 149, from exhibit 3038-G,
18 which has previously been accepted for identification
19 by the Tribunal, being a report dated 5 December 1931,
20 from the Chief of Staff, Kwantung Army, to the Vice-
21 Minister of War, pertaining to the temporary system
22 being carried out until the establishment of the new
23 regime.
24

25 Q Will you state whether the document referred
to passed through your office while you were Chief of

1 the Military Affairs Bureau, and do you admit the truth
2 of the contents of the document?

3 MR. BROOKS: While the witness is looking
4 at it, your Honor, I would like to have a copy of any-
5 thing shown to the witness because I am unable to
6 follow the questions; I don't know whether he is mis-
7 leading or what he is quoting from. And it would save
8 a lot of time if the counsel were furnished copies
9 documents in advance, as the defense has been required
10 to do under similar circumstances.

11 If anything is shown to a witness in the box
12 upon which he is being questioned, I understand his
13 defense counsel should have a copy so that he can fol-
14 low the question. I do not have any chance to look
15 at any record of transcript until it is too late.

16 THE PRESIDENT: That is contrary to my under-
17 standing of these matters. The effectiveness of a
18 cross-examination may be entirely destroyed if such
19 a procedure were adopted. The element of surprise
20 might disappear in that way.

21 The best example that I can recall of an
22 effective cross-examination was in the Piggott Forgery
23 case, where Lord Russell kept the letters in his hands
24 until the conclusion of his cross-examination. And
25 as Lord Patrick reminds me, I have repeatedly told you

1 that in the course of this trial.

2 MR. BROOKS: If your Honor please, I am not
3 asking for it in advance. I am saying that now that
4 it has been shown to the witness and he is asking ques-
5 tions on it, I should have a copy at that time to
6 protect his interests. I could not make an objection
7 on it until it is offered; I understand that.

8 THE PRESIDENT: You must get it in due time
9 to re-examine on it, but not any earlier.

10 MR. BROOKS: That is a customary procedure
11 in our courts to prevent unfair advantage being taken
12 of the defense.

13 THE PRESIDENT: We will proceed as before.

14 Q You admit the truth of the contents of the
15 document?

16 A I shall reply. This is a document upon which
17 I have never cast my eyes. The contents of this document
18 seem to be personal opinions; something that has never
19 been adopted. There are seals impressed on this docu-
20 ment, but my own seal does not appear on it. Neither
21 is there a seal of the section chief. It bears only
22 the seal of one SUZUKI.

23
24 Q It does appear, however, that it went through
25 the Military Affairs Section; isn't that true?

A No, not the Military Affairs Section. The

1 Military Administration Section; the seal of that section
2 is on this document.

3 Q Isn't there a seal dated 9 December 1931,
4 Military Affairs Section, on that document?

5 A No; the Military Administration Section: the
6 Gunji-ka.

7 THE PRESIDENT: We propose to adjourn, now,
8 for a conference of the Judges.

9 We will adjourn until half-past nine tomorrow
10 morning.

11 (Whereupon, at 1600, an adjournment
12 was taken until Tuesday, 4 November 1947, at
13 0930.)

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